

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

Case No. 6:19-cr-60002

WILLIAM PADILLA-CANTARERO

DEFENDANT

ORDER

Before the Court is a Motion to Suppress filed by Defendant William Padilla-Cantarero. ECF No. 20. The government has filed a response and supplement. ECF Nos. 24, 28. On May 20, 2019, the Court held a hearing on the motion. The Court finds that the matter is ripe for consideration.

I. BACKGROUND

On January 8, 2019, Garland County Deputy Sheriff Charles DeLaHunt observed a vehicle pull onto Airport Road and exceed the speed limit.¹ Defendant William Padilla-Cantarero (“Padilla”) was driving the vehicle. Deputy DeLaHunt stopped the vehicle for speeding and reported the license plate of the vehicle to the dispatcher. The owner of the vehicle was reported to be someone other than Padilla. Deputy DeLaHunt asked Padilla for a driver’s license, proof of registration, and proof of insurance. Padilla handed Deputy DeLaHunt an identification card from Honduras but did not provide a driver’s license.

Deputy DeLaHunt provided a dispatcher the information from Padilla’s identification card, and the dispatcher asked DeLaHunt to call. At some point, Deputy Aaron Bowerman responded to the traffic stop. Deputy Bowerman testified that the name Padilla provided to Deputy DeLaHunt

¹ Deputy DeLaHunt estimated that the vehicle was traveling 57 to 60 miles per hour. He testified that the posted speed limit was 50 miles per hour but that it eventually decreased to 45 miles per hour.

did not match the information coming from the dispatcher. Deputy Bowerman further testified that Padilla provided more than one name during the stop and that the dispatcher provided multiple names with similar spellings that were possible matches for Padilla. Also, it appeared that there was a non-extraditable, felony warrant from Virginia associated with Padilla and possible aliases. When Deputy DeLaHunt asked Padilla if he had ever been to Virginia, Padilla responded that he had not. When asked whether Padilla was the same person who had a warrant out of Virginia, Padilla said yes but then claimed that it was not him. According to Deputy DeLaHunt, because of the confusion regarding Padilla's name, he was unable to determine his identity at the scene.

At some point during the traffic stop, Deputy DeLaHunt instructed Padilla not to use his cell phone. Padilla disregarded his instruction and called someone. Shortly after the phone call, members of Padilla's family arrived at the traffic stop and caused some commotion. Deputy DeLaHunt decided to take Padilla into custody and charge him with obstructing governmental operations. An automated fingerprint identification system at the Garland County Sheriff's Office verified Padilla's identity and identified him as a previously deported alien.

The Department of Homeland Security was notified, and the United States Immigration and Customs Enforcement ("ICE") verified that Padilla was an illegal alien with a previous order of removal. Thus, an immigration detainer was placed with the Garland County Sheriff's Office. On January 10, 2019, Padilla was transferred from the custody of Garland County to ICE. That same day, ICE took new fingerprints of Padilla for the purpose of a removal proceeding. The new set of fingerprints matched to those of a subject with an immigration file, and ICE determined that Padilla had been subject to a prior order of deportation/exclusion/removal in 2014. ICE then served Padilla with a Notice of Intent to Reinstate Prior Order of Removal. Padilla was subsequently indicted for illegal re-entry by a removed alien, in violation of 8 U.S.C. § 1326(a). ECF No. 13.

II. DISCUSSION

The Fourth Amendment provides that “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.” U.S. CONST. amend. IV. In the instant motion, Padilla argues that his Fourth Amendment rights were violated because Deputy DeLaHunt conducted an unlawful traffic stop and because Deputy DeLaHunt arrested Padilla without probable cause. Padilla asserts that all evidence obtained by virtue of the unlawful traffic stop and arrest must be suppressed.²

A. Traffic Stop

Padilla argues that Deputy DeLaHunt’s traffic stop violated his Fourth Amendment rights because Deputy DeLaHunt lacked probable cause to stop him. Padilla reasons that because Deputy DeLaHunt’s affidavit in support of arrest does not recite a violation of law as the basis for the traffic stop, the stop must be unlawful.³ The government responds that Deputy DeLaHunt had probable cause or reasonable suspicion to initiate the traffic stop because he observed Padilla speeding.

A traffic stop constitutes a seizure under the Fourth Amendment, and thus it must be reasonable to pass constitutional muster. *United States v. Wright*, 512 F.3d 466, 469 (8th Cir. 2008). “[A] traffic stop is reasonable if it is supported by either probable cause or an articulable and reasonable suspicion that a traffic violation has occurred.” *U.S. v. Washington*, 455 F.3d 824, 826 (8th Cir. 2006). “Any traffic violation, however minor, provides probable cause for a traffic stop.” *Id.* (quoting *United States v. Bloomfield*, 40 F.3d 910, 915 (8th Cir. 1994)). Whether an officer’s traffic stop is pretextual is irrelevant. *Whren v. United States*, 517 U.S. 805, 812-13 (1996). “[T]he

² Padilla asserts that this evidence includes his fingerprints, an immigration file connected to him with those fingerprints, statements made to officers after his arrest, a new booking photo, and all other information gathered from him while in the custody of either the Garland County Sheriff’s Office or the Department of Homeland Security.

³ In the report entitled “Facts Constituting Probable Cause,” Deputy DeLaHunt stated that he “made a traffic stop on the vehicle[.]” but he did not record which specific traffic law Padilla allegedly violated. ECF No. 24-3. The Court assumes that this is the report Defendant is referring to when he references the “affidavit in support of arrest.”

critical inquiry in a probable-cause determination in the traffic-stop context is what the stopping officer observed before pulling over a motorist.” *United States v. \$45,000.00 in U.S. Currency*, 749 F.3d 709, 715 (8th Cir. 2014).

In the present case, Deputy DeLaHunt testified that Padilla was driving an automobile in excess of the speed limit. The fact that Deputy DeLaHunt did not reference a speeding violation in his report or cite Padilla for speeding is of no consequence. *See United States v. Guevara*, 731 F.3d 824, 828-29 (8th Cir. 2013) (holding that a state trooper has probable cause to make a traffic stop even if he does not cite to the proper statute or use the precise language of the relevant statute at the time he makes the stop); *United States v. Mendoza*, 677 F.3d 822, 828 (8th Cir. 2012) (“The mere fact that an incident report omits certain details is not sufficient to render the officer’s testimony concerning the underlying action facially implausible.”). Deputy DeLaHunt had probable cause to stop Padilla based on his apparent speeding violation. Accordingly, the Court concludes that the traffic stop was reasonable and lawful.

B. Arrest

Padilla argues that he was arrested on a charge that was not supported by probable cause. “A warrantless arrest is consistent with the Fourth Amendment if it is supported by probable cause.” *United States v. Rowe*, 878 F.3d 623, 629-30 (8th Cir. 2017) (citing *Ulrich v. Pope Cnty.*, 715 F.3d 1054, 1059 (8th Cir. 2013)). “An officer has probable cause to make a warrantless arrest when the facts and circumstances are sufficient to lead a reasonable person to believe that [a] defendant has committed or is committing an offense.” *United States v. Torres-Lona*, 491 F.3d 750, 755 (8th Cir. 2007). An officer may arrest an individual, without violating the Fourth Amendment, if the officer has probable cause to believe that the individual “has committed even a very minor criminal offense in [the officer’s] presence.” *Duhe v. City of Little Rock*, 902 F.3d 858, 861 (8th Cir. 2018); *see Rose v. City of Mulberry, Ark.*, 533 F.3d 678, 679 (8th Cir. 2008) (“[The officer] had probable cause to

detain and arrest [the individual] because [the officer] witnessed [the individual] commit a traffic violation.”). Further, “even if an officer invokes the wrong offense at the time of an arrest, probable cause for the arrest still exists as long as the facts known to the officer would provide probable cause to arrest for the violation of some other law.” *United States v. Demilia*, 771 F.3d 1051, 1054 (8th Cir. 2014) (citing *Davenpeck v. Alford*, 543 U.S. 146 (2004)).

In this case, Deputy DeLaHunt had probable cause to believe that Padilla committed an offense when he was arrested. Padilla did not have a valid driver’s license as required of all drivers on public highways pursuant to Ark. Code Ann. § 27-16-301. Deputy DeLaHunt observed Padilla speeding, which is a violation of Arkansas law. Further, Padilla claimed that he was not the same person who had a felony warrant out of Virginia, provided more than one name to Deputy Bowerman, and disregarded the instruction not to use his cell phone during the stop.⁴ Under these circumstances, Padilla’s arrest was lawful because it was supported by probable cause that Padilla had committed an offense.

Padilla argues that his Fourth Amendment rights were violated because he was arrested specifically for obstructing governmental operations without probable cause. However, even if the Court had found that Deputy DeLaHunt did not have probable cause to arrest Padilla for obstructing governmental operations, the arrest would still be lawful because the analysis of Padilla’s arrest is not limited to the invoked offense of obstructing governmental operations. Deputy DeLaHunt had probable cause to arrest Padilla for speeding and driving without a license, and Padilla does not argue otherwise.

⁴ A person commits the offense of obstructing governmental operations if the person knowingly obstructs, impairs, or hinders the performance of any governmental function or falsely identifies himself to a law enforcement officer. Ark. Code Ann. § 5-54-102.

III. CONCLUSION

For the reasons stated above, the Court finds that Padilla's Motion to Suppress (ECF No. 20) should be and hereby is **DENIED**.

IT IS SO ORDERED, this 11th day of June, 2019.

/s/ Susan O. Hickey
Susan O. Hickey
Chief United States District Judge